

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
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UNITED STATES,

- v -

**MEMORANDUM AND ORDER**

ANTHONY PATTERSON,

06 Cr. 80-6 (NRB)

Defendant.

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**NAOMI REICE BUCHWALD**  
**UNITED STATES DISTRICT JUDGE**

Defendant Anthony Patterson has filed a second motion for compassionate release. His prior motion for compassionate release was denied in an opinion issued on June 23, 2020 (ECF No. 322). June 23, 2020 Order ("Order"). The Court's prior opinion not only addressed the question of whether "extraordinary and compelling reasons" existed to warrant a reduced sentence, and found that there were no such reasons, but also provided an analysis under an assumption that such reasons existed. Id. at 4-5. This second application has not presented any additional facts or arguments that would support reconsideration of the earlier decision or a different result.

While defendant did not cite any underlying medical condition that increased his vulnerability to the exposure of COVID-19 in his initial motion, he now informs the Court that he has latent tuberculosis. Defendant's Motion for Compassionate Release and Reduction of Sentence ("Def. Mem.") at 7-8. The Bureau of Prisons

is aware of defendant's condition, but defendant has declined additional treatment after testing positive, and there is no indication in defendant's medical records of any current symptoms. Government Response in Opposition to Defendant's Motion for Compassionate Release and Reduction of Sentence ("Opp'n") at 6. Furthermore, as the Government notes, latent tuberculosis is not listed by the Centers for Disease Control and Prevention as a co-morbidity or risk factor for COVID-19. Id. at 5. Notably, defendant also declined to receive the Johnson & Johnson COVID-19 vaccine when it was first offered to him in May 2021. Id. While defendant has subsequently received the vaccine, following the Government filing its opposition brief highlighting his refusal to get vaccinated and caselaw finding that such a refusal militates against compassionate release, this cynical change does not advance his application. In sum, defendant does not suffer from any medical condition that would warrant compassionate release.

Moreover, the Court's prior finding that the application of the 18 U.S.C. § 3553(a) factors would counsel strongly against his release remains unchanged. See Order at 4.<sup>1</sup> Given defendant's

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<sup>1</sup>The prior Order failed to mention defendant's firearm charge under 18 U.S.C. § 924(c). This count and conviction added a consecutive five-year mandatory minimum sentence to defendant's drug conspiracy charge. Presentence Investigation Report ("PSR") ¶183. The mandatory consecutive five years was added to a mandatory minimum sentence of twenty years for defendant's conviction on the drug conspiracy charge, resulting from the filing of a prior felony

role in the narcotics conspiracy, as well as the magnitude of his offense, the Court finds that a reduction of his sentence is not warranted.

For the foregoing reasons, the Court denies defendant Patterson's motion. The Clerk of the Court is respectfully directed to terminate the motion pending at ECF No. 343.

**SO ORDERED.**

Dated: New York, New York  
October 22, 2021

  
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NAOMI REICE BUCHWALD  
UNITED STATES DISTRICT JUDGE

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information shortly before trial. Id. ¶¶ 5, 183. Without in any way challenging defendant's absolute right to a trial, we simply note that had defendant decided to plead guilty prior to the filing of this information, his mandatory minimum sentence on the drug count would have been 10 years. 21 U.S.C. § 841(b)(1)(A).